

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

EARL PARRIS, JR., individually,)	
and on behalf of a Class of persons)	
similarly situated,)	
)	
<i>Plaintiff,</i>)	Civil Action No. 4:21-cv-00040-TWT
)	
vs)	
)	
3M COMPANY, et al.,)	
)	
<i>Defendants.</i>)	

DEFENDANT MOUNT VERNON MILLS, INC.'S
NOTICE OF OBJECTION TO PLAINTIFFS' REPLY EXHIBITS

Defendant Mount Vernon Mills, Inc. ("Mount Vernon") hereby objects to Plaintiff Earl Parris, Jr. ("Parris") and Intervenor-Plaintiff the City of Summerville, Georgia ("Summerville") (and collectively, "Plaintiffs") Reply Brief In Support of Plaintiffs' Objection to Assertion of Privilege and Motion for *In Camera* Review of Documents (the "Motion") [Doc. 356], and shows the Court as follows:

In support of the Motion, and to counter Mount Vernon's proper contention that Plaintiffs failed to identify the specific discovery requests implicated, Plaintiffs attach two exhibits to their Reply brief: (1) Mount Vernon's Responses to Plaintiff's First Request for Production and (2) The Town of Trion's Responses to Plaintiff's

First Request for Production (the “Exhibits”). (Plaintiffs Reply, at n.1.) The Plaintiffs’ inclusion of the Exhibits in its Reply contravenes Georgia law, because it is well settled that a reply brief is not the appropriate avenue for raising new arguments or evidence. *See Jones v. Chase Home Fin., LLC*, No. 1:12-CV-542-CAP, 2012 WL 13012354, at *4 (N.D. Ga. June 18, 2012); *see also U.S. Commodity Futures Trading Comm’n v. Atha*, 420 F. Supp. 2d 1373, 1381 (N.D. Ga. 2006)(noting that District Courts “need not consider an argument raised for the first time in a reply brief.”); *see Merial LLC v. Fidopharm, Inc.*, No. 1:13-CV-1207-SCJ, 2014 WL 12042532, at *3 (N.D. Ga. July 23, 2014), citing *Herring v. Sec’y, Dep’t of Corr.*, 397 F.3d 1338, 1342 (11th Cir. 2005) (“As a general rule, federal courts will not consider arguments that are presented for the first time in a reply brief.”); *see Lowe v. Saul*, No. 4:19-CV-53-A, 2020 WL 13430176, at *4 (N.D. Tex. Apr. 16, 2020), report and recommendation adopted, No. 4:19-CV-053-A, 2020 WL 2086487 (N.D. Tex. Apr. 30, 2020)(“The reply brief is not an opportunity to submit evidence or make arguments not previously raised in the opening brief.”)

Further, the attachment of the Exhibits does nothing to **rebut** Mount Vernon’s assertion that Plaintiffs “failed to identify the specific discovery request implicated preventing Mount Vernon from addressing it in this response” because Mount Vernon’s opportunity to file its response has already passed. Local Rule 7.2.

Moreover, Plaintiffs had access to the Exhibits prior to filing its Motion, and therefore, could have easily attached the documents as exhibits to the Motion, in the first instance. Accordingly, Plaintiffs attachment of the Exhibits to their Reply is improper, and Mount Vernon objects to the Plaintiffs' inclusion of such additional evidence in their Reply. Therefore, Mount Vernon hereby requests that the Court strike the Exhibits from the Reply and/or remove the Exhibits from consideration in ruling on the Motion.

This the 1st day of March, 2023.

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*Attorneys for Defendant Mount Vernon Mills,
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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1.D., the undersigned counsel certifies that the foregoing filing is prepared in Times New Roman 14-point font, as mandated in Local Rule 5.1.C.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the within and foregoing DEFENDANT MOUNT VERNON MILLS, INC.'S NOTICE OF OBJECTION TO PLAINTIFFS' REPLY EXHIBITS IN SUPPORT OF PLAINTIFFS' OBJECTION TO ASSERTION OF PRIVILEGE AND MOTION FOR *IN CAMERA* REVIEW was electronically filed with the Clerk of Court using the CM/ECF system, which automatically serves notification of such filing to all counsel of record.

This the 1st day of March, 2023.

/s/William M. Droze

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